

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

Case No. 2:14-cv-01038-JCC

**DECLARATION OF MIYA
RAHAMIM IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT AND
MOTION IN LIMINE TO EXCLUDE
EXPERT TESTIMONY**

I, Miya Rahamim, declare as follows:

I am an attorney employed by the Federal Trade Commission ("FTC") and counsel of record for the Plaintiff FTC in this matter. I submit this declaration in support of the FTC's Motion for Summary Judgment and Motion in Limine to Exclude Expert Testimony.

1. The exhibits attached hereto contain markings pursuant to Loc. Civ. R. 10e(10).
2. Attached hereto are true and correct copies of the following documents produced by Amazon, with corresponding deposition exhibit stickers:

Exhibit Number	Bates Range or Title
11	Amazon_00220712 - Amazon_00220713
12	Amazon_00012646 - Amazon_00012649
14	Amz_FTC_0003689
15	Amz_FTC_0003690 - Amz-FTC_0003717
17	Amazon_00245988 - Amazon_00245995
28	Amazon_00246010 - Amazon_00246030

DECLARATION OF MIYA RAHAMIM
Case No. 2:14-cv-01038-JCC

Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580
(202) 326-3231

30	Amazon_00011641 - Amazon_00011642
31	Amz_FTC_0013744 - Amz_FTC_0013747
44	Amazon_00276064 - Amazon_00276065
52	Amz_FTC_0043528 - Amz_FTC_0043535
53	Amazon_00292348 - Amazon_00292355
54	Amz_FTC_0077738 - Amz_FTC_0077741
61	Amazon_00296449 - Amazon_00296457
62	Amazon_00265240 - Amazon_00265241
92	Amazon_00015769 - Amazon_00015775
98	Amazon_00012353
105	Amazon_00230526 - Amazon_00230546
107	Amazon_00302450 - Amazon_00302453
112	Amz_FTC_0092397 - Amz_FTC_0092399
121	Amazon_00018516 - Amazon_00018527
123	Amazon_00018514 - Amazon_00018515
124	Amazon_00214382 - Amazon_00214384
130	Amz_FTC_0037820 - Amz_FTC_0037830
140	Amazon_00295038 - Amazon_00295041
141	Amazon_00236442 - Amazon_00246449
145	Amazon_00241596 - Amazon_00241599
152	Amz_FTC_0005743 - Amz_FTC_0005757
153	Amazon_00016240 - Amazon_00016248
154	Amz_FTC_0073362 - Amz_FTC_0073369
160	Amz_FTC_0078694 - Amz_FTC_0078695
176	Amazon_00245048 - Amazon_00245051

DECLARATION OF MIYA RAHAMIM
Case No. 2:14-cv-01038-JCC

Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580
(202) 326-3231

179	Amazon_00244139 - Amazon_00244144
180	Amazon_00245052
186	Amazon_00244357 - Amazon_00244369
188	Amazon_00008749 - Amazon_00008892
202	Amazon_00292348 - Amazon_00292355
209	Amazon_00344645 - Amazon_00344647
218	Amazon_00010791 - Amazon_00010792
299	Amazon_00000241 - Amazon_00000247 Amazon_00000306 - Amazon_00000327 Amazon_00000348 - Amazon_00000361
301	Amazon.com, Inc's Responses and Objections To Plaintiff's Third Set of Interrogatories
302	Customer Service Contact Codes
305	Amazon_00298737 - Amazon_00298774
308	Amazon_00379861 - Amazon_00379863
322	Amazon Kindle Fire In-App Purchase Usability Report
335	Expert Report of Andrew Sears
337	Expert Report of Ravi Dhar
339	Exhibits to Expert Report of Professor Ravi Dhar
340	Rebuttal Report of Ravi Dhar
371	Expert Report of Barry A. Sabol
401	Expert Report of Jennifer King

DECLARATION OF MIYA RAHAMIM
Case No. 2:14-cv-01038-JCC

Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580
(202) 326-3231

1 3. Attached hereto as **Exhibit 65** is a true and correct copy of a document produced
2 by Amazon as Amazon_00219708 - Amazon_00219716. Exhibit 65 is an excerpt of Deposition
3 Exhibit 65.

4 4. Attached hereto as **Exhibit 341** is a true and correct copy of: Thomas H.
5 Davenport, *How to Design Smart Business Experiments*, Harv. Bus. Rev., Feb. 2009, at 69.

6 5. Attached hereto as **Exhibit 342** is a true and correct excerpt of the Expert Report
7 of Ravi Dhar, *LaPlant v. Nw. Mut. Life Ins.*, No. 2:11-CV-00910-LA (E.D. Wis. July 1, 2013).

8 6. Attached hereto as **Exhibit 343** is a true and correct excerpt of the Rebuttal
9 Expert Report of Ravi Dhar, *Johns v. Bayer Corp.*, 3:09-cv-01935-AJB-DHB (S.D. Cal. Nov. 29,
10 2012).

11 7. Attached hereto as **Exhibit 344** is a true and correct copy of Amazon's
12 Supplemental Responses to the FTC's Fourth Set of Interrogatories, served September 15, 2015.

13 8. Attached hereto as **Exhibit 347** is a true and correct copy of the Expert Report of
14 Donna Hoffman as produced by Amazon.

15 9. Attached hereto as **Exhibit 348** is a true and correct copy of the Expert Report of
16 Michael Callahan as produced by Amazon.

17 10. Attached hereto as **Exhibit 351** is a true and correct excerpt of an Excel
18 spreadsheet produced by Research Now Group, Inc. in response to an FTC subpoena for the raw
19 data collected in connection with Dr. Sabol's survey. The excerpt contains all 79 non-blank
20 responses from Column T, which is associated with Question 3(A) of Dr. Sabol's survey.

21 11. Attached hereto as **Exhibit 352** is a true and correct copy of an image produced
22 by Research Now Group, Inc. in response to an FTC subpoena for documents shown to survey
23

24
25
26
DECLARATION OF MIYA RAHAMIM
Case No. 2:14-cv-01038-JCC

Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580
(202) 326-3231

respondents in connection with the survey conducted by Dr. Sabol. Research Now Group, Inc. labeled the image “landing page screenshot.”

12. Attached hereto as **Exhibit 353** is a true and correct copy of an e-mail exchange between FTC attorney Jane Ricci and Kevin Rice, VP and Associate General Counsel for Research Now.

13. Attached hereto are true and correct copies of Customer Service Contact Summaries and transcripts of corresponding audio recordings produced by Amazon, as identified in the table below. The table contains a listing of each exhibit number, along with (1) a customer service contact summary produced by Amazon, identified by Bates-number; and (2) the corresponding customer service audio recording(s) produced by Amazon at the respective Bates-number. The transcripts were prepared by a court reporting service at the direction of the FTC. The transcripts and customer service contact summaries were redacted to remove sensitive personal information.

Exhibit	Customer Service Contact Summary Bates-number	Audio Recording Bates-number
410	Amazon_00023782	Amazon_00389968
411	Amazon_00023824	Amazon_00389974
412	Amazon_00023835	Amazon_00389976
413	Amazon_00024383	Amazon_00390045
414	Amazon_00024719	Amazon_00389826
415	Amazon_00025090	Amazon_00389864
416	Amazon_00025159	Amazon_00389870
417	Amazon_00025718	Amazon_00389919
418	Amazon_00025918 – Amazon_00025919	Amazon_00389935
419	Amazon_00028771	Amazon_00390319
420	Amazon_00031860	Amazon_00390606
421	Amazon_00032341	Amazon_00390702, Amazon_00390701
422	Amazon_00032357	Amazon_00390707, Amazon_00390706

DECLARATION OF MIYA RAHAMIM
Case No. 2:14-cv-01038-JCC

Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580
(202) 326-3231

1	423	Amazon_00032363	Amazon_00390709
2	424	Amazon_00032457	Amazon_00390719
3	425	Amazon_00107149	Amazon_00400937, Amazon_00400938
4	426	Amazon_00107208	Amazon_00400950
5	427	Amazon_00107412	Amazon_00400979, Amazon_00400980
6	428	Amazon_00107763	Amazon_00401023, Amazon_00401024
7	429	Amazon_00133693	Amazon_00404706, Amazon_00404707
8	430	Amazon_00134475 – Amazon_00134476	Amazon_00404832
9	431	Amazon_00031901	Amazon_00383022, Amazon_00383023
10	432	Amazon_00035946	Amazon_00383053
11	433	Amazon_00113049	Amazon_00384261, Amazon_00384262
12	434	Amazon_00119186	Amazon_00402669, Amazon_00402670
13	435	Amazon_00024764	Amazon_00389830
14	436	Amazon_00024791	Amazon_00389835
15	437	Amazon_00381393	Amazon_00389850
16	438	Amazon_00025667	Amazon_00389917
17	439	Amazon_00024024	Amazon_00390011
18	440	Amazon_00028849	Amazon_00390331, Amazon_00390330
19	441	Amazon_00034659 – Amazon_0034660	Amazon_00391135, Amazon_00391136
20	442	Amazon_00049147	Amazon_00393225, Amazon_00393226
21	443	Amazon_00058835	Amazon_00394469, Amazon_00394468
22	444	Amazon_00060075	Amazon_00394627, Amazon_00394626
23	445	Amazon_00061548	Amazon_00394830, Amazon_00394829
24	446	Amazon_00025743	Amazon_00389924
25	447	Amazon_00070176	Amazon_00396059, Amazon_00396060
26	448	Amazon_00074589	Amazon_00396692, Amazon_00396691
	449	Amazon_00078088	Amazon_00397149, Amazon_00397150
	450	Amazon_00079706	Amazon_00397338
	451	Amazon_00083441	Amazon_00397816
	452	Amazon_00083699	Amazon_00397851, Amazon_00397850
	453	Amazon_00112969	Amazon_00401769, Amazon_00401770

14. Attached hereto are true and correct copies of the following Customer Service Contact Summaries produced by Amazon, redacted to remove personally identifying information:

DECLARATION OF MIYA RAHAMIM
Case No. 2:14-cv-01038-JCC

Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580
(202) 326-3231

Exhibit Number	Bates Range
454	Amazon_00184734-35
455	Amazon_00185500-01
456	Amazon_00185555
457	Amazon_00185793-94
458	Amazon_00186814
459	Amazon_00188548-49
460	Amazon_00188564-65
461	Amazon_00188663-64
462	Amazon_00189183-84
463	Amazon_00191121-22
464	Amazon_00191153-54
465	Amazon_00191951-52
466	Amazon_00192010
467	Amazon_00192179
468	Amazon_00196107
469	Amazon_00196364
470	Amazon_00196811-12
471	Amazon_00197327-28
472	Amazon_00198531-32
473	Amazon_00202091-92

15. Attached hereto are true and correct copies of the following documents produced by Storm8, Inc. to the FTC, with personally identifying information redacted:

DECLARATION OF MIYA RAHAMIM
Case No. 2:14-cv-01038-JCC

Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580
(202) 326-3231

Exhibit Number	Bates Range
474	FTC_AMZ_00000175-76 (STORM8-00006344-45)
475	FTC_AMZ_00000195-96 (STORM8-00006846-47)
476	FTC_AMZ_00000199-201 (STORM8-00006852-54)
477	FTC_AMZ_00000240-42 (STORM8-00008818-20)
478	FTC_AMZ_00000262-63 (STORM8-00008974-75)
479	FTC_AMZ_00000264-66 (STORM8-00009007-09)
480	FTC_AMZ_00000273-74 (STORM8-00009203-04)
481	FTC_AMZ_00000323-25 (STORM8-00009986-88)
482	FTC_AMZ_00000440-41 (STORM8-00010848-49)
483	FTC_AMZ_00000610-12 (STORM8-00013510-12)
484	FTC_AMZ_00000664-65 (STORM8-00014094-95)
485	FTC_AMZ_00000670-72 (STORM8-00014197-99)
486	FTC_AMZ_00000830-31 (STORM8-00019938-39)
487	FTC_AMZ_00001196-98 (STORM8-00024420-22)

16. Attached hereto as **Exhibit A** is a true and correct copy of the Declaration Regarding Certification of Records of Regularly Conducted Activity Pursuant to 28 U.S.C. § 1746, signed by Laura Yip, Co-Founder & Chief People Officer and dated October 12, 2015.

17. Attached hereto as **Exhibit 488** is a true and correct copy of a document produced by Glu Mobile, Inc., Bates- stamped GLU-FTC00000025-28, with personally identifying information redacted.

18. Attached hereto as **Exhibit B** is a true and correct copy of the Declaration Regarding Certification of Records of Regularly Conducted Activity Pursuant to 28 U.S.C. §

DECLARATION OF MIYA RAHAMIM
Case No. 2:14-cv-01038-JCC

Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580
(202) 326-3231

1746, signed by Robert Ricca, Deputy General Counsel of Glu Mobile, Inc. and dated September 15, 2015.

19. Attached hereto are true and correct excerpts of the following transcripts of depositions taken in this matter:

Exhibit Number	Deposition
350	Craig Rosenberg
354	Barry A. Sabol
355	Andrew L. Sears
500	30(b)(6) - Aaron C. Rubenson
501	30(b)(6) - Jeffrey D. Pieros
502	Aaron C. Rubenson
503	James N. Adkins
504	Michael Callahan
505	Ravi Dhar
506	Michael Harbut
507	Ryan Kortekaas
508	Michael A. Lagoni
509	Ameesh Paleja
510	Jeffrey D. Pieros
511	Alex Rouse

20. Attached hereto as **Exhibit 523** is a true and correct copy of a screenshot from Amazon's website that was captured by Federal Trade Commission staff and produced to Amazon with the Bates-stamp FTC_AMZ_00003250.

DECLARATION OF MIYA RAHAMIM
Case No. 2:14-cv-01038-JCC

Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580
(202) 326-3231

21. Attached hereto are true and correct copies of the following documents produced
by Amazon:

Exhibit Number	Bates Range or Description
345	Amazon_00290191
346	Amazon_00361611
349	Amazon_00388487-90
520	Amz_FTC_0042067-68
521	Amazon_00156632
522	Amz_CSC_0013142 - 0013144
526	Amazon_00008902
527	Amazon_00294140 - 00294198
528	Amazon_00372805 - 00372872
529	Amazon_00377620 - 00377692
530	Amazon's Supplemental Response to Interrogatory No. 9

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of February 2016.

s/ Miya Rahamim
MIYA RAHAMIM

DECLARATION OF MIYA RAHAMIM
Case No. 2:14-cv-01038-JCC

Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580
(202) 326-3231